

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-077-10078R

Parcel No. 320/03913-275-000

Alan and Ann Fender (Fender Family Living Trust),

Appellants,

vs.

Polk County Board of Review,

Appellee.

Introduction

The appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on November 8, 2019. Alan and Ann Fender, trustees of Fender Family Living Trust, are self-represented, and asked that the appeal proceed without a hearing. Assistant County Attorney Jason Wittgraf represents the Polk County Board of Review.

Alan and Ann Fender Family Living Trust, and trustees Alan and Ann Fender, own a residential property located at 1642 S 49th Street, West Des Moines, Iowa. Its January 1, 2019, assessment was set at \$716,400, allocated as \$159,300 in land value and \$557,100 in building value. (Ex. A).

The Fenders petitioned the Board of Review contending their assessment was not equitable as compared with assessments of other like property. Iowa Code § 441.37(1)(a)(1) (2019). The Board of Review lowered the assessment to \$690,900, allocated as \$159,300 in land value and \$531,600 in building value. (Ex. B).

The Fenders then appealed to PAAB re-asserting their claim.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a one-story home built in 2001. It has 2532 square feet of gross living area, 1600 square feet of living-quarter quality basement finish with a walkout, a patio, an open porch, and a three-car attached garage. The site is 0.833 acres. The improvements are listed in normal condition with a 1+10 Grade (superior quality). The Fenders purchased the subject property in 2015 for \$665,000. (Ex. A).

In support of their claim, the Fenders listed four neighboring properties they believe show their property is inequitably assessed. The Board of Review submitted the cost sheets for these properties and they are summarized in the following table. (Exs. C-G).

Comparable	Site Size	Year Built	Grade	Gross Living Area (SF)	Basement Finish	Assessed Value	AV/SF
Subject Property	0.833	2001	1+10	2532	1600 LQ W/O	\$690,900	\$273
1 - 4914 Oak Hill Dr	0.454	1999	2+10	3180	770 LQ	\$481,700	\$151
2 - 1653 S 49th St	0.384	2001	1+05	3252	No Finish	\$537,200	\$165
3 - 1650 S 49th St	0.812	2001	1+05	3202	1100 LQ W/O	\$668,400	\$209
4 - 4905 Oak Hill Dr	0.816	2000	E(0)-10	3340	1350 LQ W/O	\$724,200	\$217

The Fenders believe their property should be assessed at \$186 per square foot, which is the average of the neighboring properties. (Ex. C). However, we note this comparison is not reliable. All of the comparables have more gross living area than the subject property, which in turn results in a lower per square foot value.

All of the comparable properties are two-story homes with less main-level living area than the subject's one-story design. Main floor living area tends to have a greater cost than second-story living area. The Fenders' property also has the second-highest Grade rating (1+10), which results in a higher assessment. Further, none of the comparables have as much basement finish as the subject property and Comparables 1 and 2 do not have a walk-out lower level and are both smaller than the subject. (Exs. D & E). The site value of Comparables 1 and 2 are \$107,600 and \$100,800 respectively. In comparison the subject site has an assessed value of \$159,300. (Ex. A). Comparables 3 and 4, which also have a walk-out site similar to the subject and are of similar size have assessed site values of \$157,100 and \$157,500 respectively. (Exs. F & G).

Comparable 4, which has the highest assessment, also has a 680 square foot in-ground swimming pool with an assessed value of \$34,680. (Ex. G).

There is no evidence in the record that any of these comparable properties have recently sold.

The Board of Review asserts the properties the Fenders "submitted are distinguishable based upon their respective cost sheets." (Ex. H).

Analysis & Conclusions of Law

The Fenders contend the subject property is inequitably assessed as provided under Iowa Code section 441.37(1)(a)(1). The Fenders bear the burden of proof. § 441.21(3).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Although the Fenders submitted four properties that are similarly situated all of them are two-story homes and possess several other points of difference that make them difficult to compare to the subject property. Examining one common element between the subject and Comparables 3 and 4 – their lots – it appears the assessed land values are relatively uniform. Here, we find the Fenders did not demonstrate the Assessor applied an assessing method in a non-uniform manner.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides inequity exists when, after considering the actual (2018) and assessed (2019) values of similar properties, the subject property is assessed at a higher proportion of its actual value. *Id.* This is commonly done through an assessment/sales ratio analysis comparing prior year sales and current year assessments of the subject property and comparable properties. It is insufficient to simply compare the subject property's assessed value to the assessments of other properties or to compare the assessed value per square foot amongst properties.

Ultimately, the *Maxwell* analysis cannot be completed because an assessment/sale price ratio needs to be developed for both comparable properties and also the subject property. The Fenders submitted four comparable properties but none of them have recently sold. Moreover, the subject property did not recently sell, nor did

the Fenders offer evidence of its January 1, 2019, market value that is consistent with section 441.21.¹

Viewing the record as a whole, we find the Fenders failed to prove the subject property's assessed value is inequitable as compared with the assessments of other like properties.

Order

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Karen Oberman, Board Member



Elizabeth Goodman, Board Member



Dennis Loll, Board Member

¹ Iowa Code section 441.21 requires that a property's assessed value be determined, first and foremost, by sales of the subject property or comparable properties.

Copies to:

Alan and Ann Fender
1642 S 49th Street
West Des Moines, Iowa 50265

Polk County Board of Review by eFile